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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,630	05/30/2006	Kari Alitalo	28113/39467A	2853
4743 MADSHALI	7590 01/15/2008 GERSTEIN & BORIN I I	EXAMINER		
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300			WILDER, CYNTHIA B	
	SEARS TOWER CHICAGO, IL 60606		ART UNIT	PAPER NUMBER
cincrido, iz			1637	
			MAIL DATE	DELIVERY MODE
			01/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
Office Action Cummers	10/567,630	ALITALO ET AL.				
Office Action Summary	Examiner	Art Unit				
	Cynthia B. Wilder, Ph.D.	1637				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status						
1) Responsive to communication(s) filed on 20 Fe	bruary 2007.					
· <u> </u>	action is non-final.					
· <u>=</u>	☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4) Claim(s) See Continuation Sheet is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)☐ Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.	<u>-</u>					
•	8) Claim(s) <u>1-15, 17, 21-22, 25-29, 31, 33-34, 36-38, 41, 46, 48, 52, 54-55, 68, 70-76</u> are subject to restriction					
and/or election requirement.	50, 71, 70, 70, 62, 67, 66, 70, 70					
Application Papers						
9) The specification is objected to by the Examiner.						
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received.						
Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attach mant/a)						
Attachment(s) 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)						
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date.						
3) Information Disclosure Statement(s) (PTO/SB/08) 5) Notice of Informal Patent Application						
Paper No(s)/Mail Date	6)					

Continuation Sheet (PTOL-326)

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Continuation of Disposition of Claims: Claims pending in the application are 1-15,17,21,22,25-29,31,33,34,36-38,41,46,48,52,54,55,68 and 70-76.

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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-15, drawn to a method of screening colon tissues, classified in class 435, subclass 6.
 - II. Claims 17, 21, 22, 25-29, 31, 33-34, 36-41, 46, 68, 70-76, drawn to a method of inhibiting growth by treating, classified in class 514, subclass 44.
 - III. Claims 48, 52 54, 55, drawn to a method of a modulator compound, classified in class 435, subclass 7.2.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I, II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different modes of operation resulting in different effects. For example, the method of invention I operates via hybridization procedures to screen for colon tissue expressing Prox-1, whereas the method of invention II operates via steps of administering a composition to a subject for the objective of inhibiting the growth of colon carcinoma cells and finally the method of invention III is operates via protein binding assays to screen for Prox-1 modulators. A search burden exists if the different inventions are searched together because the searches of the different inventions are not coextensive due to non-overlapping subject matter.

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3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required

because the inventions require a different field of search (see MPEP § 808.02), and

have acquired a separate status in the art in view of their different classification,

restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must

include (i) an election of a species or invention to be examined even though the

requirement be traversed (37 CFR 1.143) and (ii) identification of the claims

encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To

reserve a right to petition, the election must be made with traverse. If the reply does not

distinctly and specifically point out supposed errors in the restriction requirement, the

election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not

patentably distinct, applicant should submit evidence or identify such evidence now of

record showing the inventions or species to be obvious variants or clearly admit on the

record that this is the case. In either instance, if the examiner finds one of the inventions

unpatentable over the prior art, the evidence or admission may be used in a rejection

under 35 U.S.C.103(a) of the other invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected

invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by

a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Cynthia B. Wilder, Ph.D. whose telephone number is

(571) 272-0791. The examiner can normally be reached on a flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cynthia B. Wilder, Ph.D.

Patent Examiner

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